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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,610	11/09/2001	Eric C. Hannah	042390.P13119	7624

7590 03/19/2003

Blakely, Sokoloff, Taylor & Zafman  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1030

EXAMINER

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ART UNIT	PAPER NUMBER
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1639

DATE MAILED: 03/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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DATE MAILED:

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**Commissioner of Patents and Trademarks**

Application No.: 09/991,610.

Art Unit: 1639.

NOTE: The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1639.

1. The reply filed on 12/23/02 (Paper No. 7) is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicant have elected Group III (Claims 14-20). Cancel claims 1-13 and 21-30, and added new claims 31-48. However, the election does not include an election of species for Group III. The requirement for an election of species for Group III is reiterated below:

If applicants elect the invention of Group III (Claims 14-20), applicants are required to further elect a single specific species of ligand of Claim 20.

Applicant did not elect a single specific species (type of ligand) for the invention of Group III. Therefore, the response is not proper.

Further, the new claims 31-48 contains claims directed to the following patentably distinct species of the claimed invention. Applicants are required to further elect a single specific species from each species groups. The species groups are as follow: Group A refer to the type of probes and Group B refer to the probes length.

The species are distinct, each from the other, because their structures and/or modes of action are different. For the different products (e.g. probe), they differ in their reactivity and the starting materials from which they are made. Therefore, the species have different issues regarding patentability and represent patentably distinct subject matter.

2. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 94-96, 99, 115 and 118-125 are generic.

3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election. Because the above restriction/election requirement is complex, a telephone call to applicants to request an oral election was not made. See MPEP § 812.01.

4. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to My-Chau T. Tran whose telephone number is 703-305-6999. The examiner is on Increased Flex Schedule and can normally be reached on Monday: 8:00-2:30; Tuesday-Thursday: 7:30-5:00; Friday: 8:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Wang can be reached on 703-306-3217. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1123.

mct

March 14, 2003

  
**PADMASHRI PONNALURI**  
**PRIMARY EXAMINER**